

STATE OF MICHIGAN
COURT OF APPEALS

KIM L. VICTOR,

Plaintiff-Appellant,

v

THIRTY-FOURTH CIRCUIT COURT and
UNKNOWN FOIA COORDINATOR,

Defendants-Appellees.

UNPUBLISHED

April 10, 2014

No. 315094

Roscommon Circuit Court

LC No. 12-729922-CZ

Before: DONOFRIO, P.J., and CAVANAGH and JANSEN, JJ.

MEMORANDUM.

In this case arising under the Freedom of Information Act (FOIA),¹ plaintiff appeals as of right from the order the circuit court granting the motion of defendant the “Unknown FOIA Coordinator” for summary disposition, and sua sponte doing likewise on behalf of defendant circuit court itself. We affirm.

Plaintiff requested information concerning the election campaign finances of two judges operating in Roscommon County. His complaint asserted that the records sought were “located in the 34th Circuit Courthouse,” and he insists that he sent his request to the attention of the FOIA Coordinator at an address covering not only the Roscommon Circuit Court, but other Roscommon County offices as well. In granting summary disposition to defendants, the trial court read from an un rebutted affidavit from the county clerk advising that no such records were ever kept in that office and advised plaintiff that any such request would be better addressed to the Secretary of State. The court correctly stated, “the Michigan Legislature was not foolish enough to pass a law that says the FOIA Coordinator and the county clerk have to provide documents that are not in their possession but instead are in the possession of the Bureau of Elections of the . . . Department of State.” See MCL 15.232(e) (defining “public record” as “a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function”). The court further noted that the FOIA exempts the judiciary from its definition of “public body” for purposes of any duty of disclosure under the

¹ MCL 15.231 *et seq.*

act. See MCL 15.232(d)(v). The court thus identified two sound bases for disposing of this case in defendants' favor.

Plaintiff correctly cites the Michigan Campaign Finance Act² in claiming that an election campaign has a duty to compile, store, and make available for public inspection certain information, see MCL 169.216 and MCL 169.222, but he fails to appreciate that the act does not direct that a circuit judge's election information be kept by that judge's particular court itself or by the county hosting that judicial entity.

Because plaintiff failed to direct his FOIA requests to the proper office or jurisdiction, and beyond that, sought to compel the judiciary, which is not a "public body" under the FOIA, to disclose information it did not possess, the trial court properly concluded that the lack of response on the part of defendants constituted no FOIA violation and dismissed the case.

Affirmed.

/s/ Pat M. Donofrio
/s/ Mark J. Cavanagh
/s/ Kathleen Jansen

² MCL 169.201 *et seq.*